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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,733	09/09/2003	Norman R. Lampert	Lampert 63	2789

7590 02/04/2005  
Fitel USA Corp.  
Suite 2H02  
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EXAMINER
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NGUYEN, KHIEM M

ART UNIT	PAPER NUMBER
2839	

DATE MAILED: 02/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H-A

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/658,733	LAMPERT, NORMAN R.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Khiem Nguyen	2839	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 November 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 14-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) 8-13 is/are objected to.
- 8) ☒ Claim(s) 14-25 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 14-25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/01/04.

### ***Claim Objections***

2. Claim 8 is objected to because of the following informalities: "the secondary configuration" recited at line 2 of claim 8 lacks proper antecedent basis. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. Claims 3 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2 at line 2, should "NTA" be changed to -NT--?

In claim 6 at line 2, "axial bore" lacks proper antecedent basis.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Japan'217.

Japan'217 discloses for use in optical fiber connector apparatus an optical fiber containing member 1 comprising: an elongated ferrule member 6 having a longitudinal bore 7 extending from a front end thereof toward the rear end thereof; and a clamping member (8a,b,c) within said bore for bearing against the optical fiber for fixing it in place; the material of said clamping member comprising shaped memory alloy (SMA); wherein said clamping member has a primary configuration and can be stressed to a secondary or deformed configuration different from said primary configuration (see figures 2 and 3).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan'217 in view of Hirohisa et al. (NPL-97).

Japan'217 discloses for use in optical fiber connector apparatus an optical fiber containing member 1 comprising: an elongated ferrule member 6 having a longitudinal bore 7 extending from a front end thereof toward the rear end thereof; and a clamping member (8a,b,c) within said bore for bearing against the optical fiber for fixing it in place; the material of said clamping member comprising shaped memory alloy (SMA).

For claims 2-3, Japan lacks to disclose that his clamping member is made up of a material comprising Ni-Ti shape memory alloy. Hirohisa et al. discloses Ni-Ti shape memory alloy used for various leaf springs. Therefore, it would have been obvious to construct the clamping member of Japan'217 out of Ni-Ti shape memory alloy for providing good clamping characteristics to the optical fiber.

8. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan'217 in view of Maron et al. (6,317,555).

For claims 5-6, Japan lacks to disclose that his clamping member is a sleeve. Maron et al. discloses that it is known to construct shape memory clamping member to form a sleeve 46 (see column 6, lines 26-30). Therefore, it would have been obvious to construct or provide a shape memory clamping member comprising a sleeve for securing the optical fiber of Japan in view of the teachings of Maron et al. The use of a sleeve shaped clamping member would reduce the number of parts for the clamping member, since Japan requires a three-pieces clamping member.

Regarding claim 7, the hollow lobes limitation as being recited is an obvious shape variation of the through-hole 7 as shown in figure 2 of Japan'217.

***Allowable Subject Matter***

9. Claims 8-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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10. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art discloses or suggests a shape memory clamping member which has a planar strip primary configuration and bears against a fiber in a longitudinal bore to clamp it in place or the clamping member has a V-shaped configuration in the secondary configuration.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khiem Nguyen whose telephone number is 571 272-2096. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TC Patel can be reached on 571 272-2098. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Khiem Nguyen*  
Khiem Nguyen  
Primary Examiner  
Art Unit 2839